



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2012-0903]

RIN 1625-AA00

Safety Zone; Seafair Blue Angels Air Show Performance,
Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The U.S. Coast Guard is amending the Seafair Blue Angels Air Show Performance safety zone on the waters of Lake Washington, Seattle, WA. This action is necessary to safeguard participants and spectators from the safety hazards associated with the Seafair Blue Angels Air Show Performance, which include low flying high speed aircraft, and will do so by prohibiting entry into the safety zone unless authorized by the Captain of the Port (COTP), Puget Sound or a Designated Representative.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2012-0903]. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail ENS Nathaniel P. Clinger; Waterways Management Division, Coast Guard Sector Puget Sound; Coast Guard; telephone 206-217-6045, e-mail SectorPugetSoundWWM@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

On July 30, 2012, a Temporary Final Rule (TFR), Safety Zone; Seafair Blue Angels Air Show Performance, Seattle, WA, was published. The TFR increased the size of the preexisting safety zone. On October 15, 2012, an NPRM,

Safety Zone, Seafair Blue Angels Air Show Performance, Seattle, WA, was published. The Coast Guard received 2 comments pertaining to the NPRM, submitted via regulations.gov, and received 0 requests for public meeting. The comments received were in favor of the rule outlined in the NPRM and therefore no changes were made to the rule.

B. Basis and Purpose

The Coast Guard is amending this safety zone to ensure the safety of the maritime public and participants during the Seattle Blue Angels Air Show. The size of the safety zone in 33 CFR 165.1319 has been determined to be inadequate to accommodate the anticipated flight pattern of the Blue Angels. This rule extends the northern boundary line of the existing regulation northward by 500 yards, and updates coordinates to provide a zone of adequate size.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received 2 comments with regard to the preceding NPRM of this Final Rule. Both comments supported the decision to increase the safety zone size of the rule to ensure adequate safety of the maritime public and participants during the Air Show. As a result no changes were made to the rule.

As described in 69 FR 35249-01, the Coast Guard established a final rule for the annual Blue Angels Air Show Performance. The purpose of this rule is to protect the

public from dangers including excessive noise and falling objects from any potential accidents caused by these low-flying military aircraft. The regulation contained in 33 CFR 165.1319 encompasses "all waters of Lake Washington, Washington State, enclosed by the following points: Near the termination of Roanoke Way 47°35'44" N, 122°14'47" W; thence to 47°35'48" N, 122°15'45" W; thence to 47°36'02.1" N, 122°15'50.2" W; thence to 47°35'56.6" N, 122°16'29.2" W; thence to 47°35'42" N, 122°16'24" W; thence to the east side of the entrance to the west highrise of the Interstate 90 bridge; thence westerly along the south side of the bridge to the shoreline on the western terminus of the bridge; thence southerly along the shoreline to Andrews Bay at 47°33'06" N, 122°15'32" W; thence northeast along the shoreline of Bailey Peninsula to its northeast point at 47°33'44" N, 122°15'04" W; thence easterly along the east-west line drawn tangent to Bailey Peninsula; thence northerly along the shore of Mercer Island to the point of origin. [Datum: NAD 1983]"

However, the participating aircraft have a flight pattern that will extend past the northern boundary of the regulation in 33 CFR 156.1319. As such, an extension is necessary in order to protect the maritime public and participants.

This rule amends the Seafair Blue Angels Air Show

Performance Safety Zone, extending the northern boundary starting at point 47°36'17.28"N, 122°16'49.44"W; thence west to point 47°36'17.28"N, 122°16'58.56"W; thence south along the shoreline to point 47°35'25.44"N, 122°17'9.48"W; thence east along the I-90 bridge to point 47°35'23.16"N, 122°15'17.1"W; thence north east along the shoreline to point 47°35'45.3"N, 122°14'49.44"W; thence north back to the point of origin.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard bases this finding on the fact that the safety zone will be in place for a limited period of time and vessel traffic will be able to transit around the safety zone.

Maritime traffic may also request permission to transit through the zone from the (COTP), Puget Sound or a Designated Representative.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 0 comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which may be small entities: the owners and operators of vessels intending to operate in the waters covered by the safety zone while it is in effect. The rule would not have a significant economic impact on a substantial number of small entities because the safety zone would be in place for limited periods of time and maritime traffic would still be able to transit around the safety zone. Maritime traffic may also request permission to transit through the zone from the COTP, Puget

Sound or a Designated Representative.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will

not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian

tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the amendment of a safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that

may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is amending 33 CFR Part 165, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. Amend §165.1319 to revise paragraph (b) to read as follows:

§ 165.1319 Safety Zone Regulations; Seafair Blue Angels Air Show Performance, Seattle, WA.

* * * * *

(b) *Location.* The following is a safety zone: All waters of Lake Washington encompassed by the following points:

47°36'17.28" N, 122°14'49.44" W; thence west to point
47°36'17.28" N, 122°16'58.56" W; thence south along the
shoreline to Andrews Bay at point 47°33'04.62" N,
122°15'32.46" W; thence northeast along the shoreline of
Bailey Peninsula to its northeast point at 47°33'44.98" N,
122°15'03.48" W; thence easterly to point 47°33'43.98" N,
122°13'51.36" W on Mercer Island; thence northerly along the
shore of Mercer Island to point 47°35'45.12" N,
122°14'49.44" W; thence north back to the point of origin.

* * * * *

DATED: February 9, 2013 S. J. Ferguson
 Captain, U.S. Coast Guard
 Captain of the Port, Puget Sound

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Date: 02/25/2013]